

A Certificate of Resale must contain the items of information listed at 86 Ill. Adm. Code 130.1405. (This is a GIL).

March 10, 2000

Dear Xxxxx:

This letter is in response to your letter dated January 10, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Per our telephone conversation on Jan. 7, attached you will find an explanation of an unusual situation that the bank got into. We are now wishing to process title applications to transfer the titles into our name without having to pay taxes on them. We have the intent to resell all of the vehicles but cannot do so until the title work is processed. All of the vehicles have out of state titles and we would like to process title work putting BANK as owner on an IL title. Please fax us the appropriate response/letter so that the title work can be taken care of. If you need additional information, please feel free to contact the number listed below.

The Illinois Retailers' Occupation Tax (i.e. sales tax) is imposed upon the total gross receipts received by retailers who make retail sales to Illinois end users. See 86 Ill. Adm. Code 130.101, enclosed. "Gross receipts" from sales of tangible personal property at retail is defined as the total selling price or the amount of such sales. "Selling price" or the "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever." See 35 ILCS 120/1. In the situation set out in your letter, we understand that BANK was pursuing a legal claim against a party and that in consideration of settling the matter one PERSON (President of COMPANY) signed over the title to certain vehicles to BANK. Inasmuch as the above stated definitions of selling price or amount of sale includes credits not received in money, we believe the transfer of the vehicles to you constituted a retail sale. Because COMPANY is a dealer, the transactions were subject to Retailers' Occupation Tax.

However, if these vehicles were acquired for the purpose of resale and not for use, the transactions would be nontaxable on the basis of being sales for resale so long as BANK were to provide Certificates of Resale as described in 86 Ill. Adm. Code 130.1405, enclosed.

March 10, 2000

In our recent clarifying telephone conversation you stated that BANK would sell these vehicles at auction. Please be advised that if they are sold to dealers for the purpose of resale, the transactions would be non-taxable sales for resale as described above. If the vehicles are sold to persons for use or consumption, then such sales would be taxable.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.